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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,017	09/02/2003	Helmut Sellmeier	203032	2016
30008	7590	04/20/2006	EXAMINER	
GUDRUN E. HUCKETT DRAUDT LONSSTR. 53 WUPPERTAL, 42289 GERMANY			PATTERSON, MARC A	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/605,017		SELLMEIER ET AL.	
	Examiner		Art Unit	
	Marc A. Patterson		1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, 7 – 8, 14, 17 – 18, 20 and 22 – 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Wemlinger (U.S. Patent No. 3,529,765).

With regard to Claim 1, Wemlinger discloses a bag (column 1, lines 12 – 15) for transporting moisture – sensitive goods (hygroscopic; column 1, lines 21 – 22) comprised of a laminate, therefore a unilayer multi – ply laminate, (column 2, lines 58 – 60) comprising an outer ply (column 2, lines 70 – 71) comprising crepe paper (column 3, lines 1 – 3) and a central ply comprised of a material forming a vapor barrier (barrier material; column 2, lines 58 – 60) and an inner ply comprised of weldable thermoplastic material (a moisture impervious inner heat sealable ply; column 4, lines 5 – 8).

With regard to Claim 4, the central ply disclosed by Wemlinger is an aluminum foil (column 2, lines 60 – 64).

With regard to Claim 7, the disclosed by Wemlinger is glued shut with adhesive (column 3, lines 49 – 52) and the outer ply is therefore lined by pasting.

With regard to Claim 8, Wemlinger discloses a laminate of heat – sealable material (column 2, lines 55 – 58) and discloses a heat – sealable laminate comprising a polyethylene (column 2, lines 65 – 69); Wemlinger therefore discloses three layers of heat sealable material

comprising a polyethylene, therefore two films of polyethylene acting as bonding agents, wherein the central ply, the third film of polyethylene, is bonded between the films.

With regard to Claim 14, the bag disclosed by Wemlinger is a gusseted bag having lateral gussets with laterally positioned fold edges, wherein fold edges are displaced relative to one another in a transverse direction of the bag (gusseted area on both sides; column 2, lines 25 – 28; Figure 3).

With regard to Claim 17, the bag wall disclosed by Wemlinger has a longitudinal closure seam formed as a fin seal (end flap which is sealed, therefore a seam, and sealing the gussets, which are fin – shaped; column 2, lines 30 – 32).

With regard to Claim 18, a seam area of the fin seal disclosed by Wemlinger is folded onto an exterior side of the bag wall and is glued with an adhesive to the exterior side (the fin seal is a flap; column 2, lines 30 – 32; column 3, lines 49 – 52).

With regard to Claim 20, the bag disclosed by Wemlinger has a width (column 2, line 40) and therefore has a first and second end, which are provided with and closed by a bottom flap (flap ‘8’; column 2, lines 30 – 32), therefore a flap which is staggered.

With regard to Claims 22 – 23, the bag is a gusseted bag, as stated above, and has a first wall and second wall laterally connected by gussets (Figure 2) and for forming the staggered bottom flap, the first wall extends past terminal edges of the gussets and the second wall is staggered relative to the first wall and ends below the terminal edges of the gussets (the flap is folded, therefore folding lines for the bottom flap extend at a spacing relative to an edge of the second wall facing the bottom flap, and is staggered relative to the first wall and ends below the

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terminal edges of the gussets because it is folded below the first wall; column 2, lines 30 – 32;

Figure 3.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 – 3, 10 – 13 and 15 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wemlinger (U.S. Patent No. 3,529,765).

Wemlinger discloses a bag comprising crepe paper, polyethylene films and fold edges as discussed above. With regard to Claims 2 – 3, 10 – 13 and 15 – 16, Wemlinger fails to disclose a crepe paper having a grammage of 90 g/m², polyethylene films having grammage of 30 g/m² and 85 g/m² and fold edges displaced by 3 mm relative to one another. However, Wemlinger discloses the selection of the displacement of the fold edges depending on the desired width (the face width can be of any desired width; column 2, lines 42 – 43) and the selection of the grammage suitable to make a bag having a weight of 50 pounds (column 3, lines 14 – 15). Therefore, one of ordinary skill in the art would have recognized the utility of varying the grammage and displacement to obtain the desired weight and width. Therefore, the weight and width would be readily determined by through routine optimization of the grammage and displacement by one having ordinary skill in the art depending on the desired use of the end product as taught by Wemlinger.

It therefore would be obvious for one of ordinary skill in the art to vary the grammage and displacement in order to obtain the desired weight and width, since the weight and width would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end result as shown by Wemlinger.

5. Claims 5 – 6, 9, 19 and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Wemlinger (U.S. Patent No. 3,529,765) in view of Takahashi et al (U.S. Patent No. 6,329,465 B1).

Wemlinger discloses a bag comprising a barrier film and a polyethylene film and a glue, therefore an adhesive which is used in gluing, as discussed above. With regard to Claims 5 – 6, 9, 19 and 21, Wemlinger fails to disclose a barrier film comprising metallized polyethylene terephthalate and a polyethylene film comprising metallocene linear low density polyethylene and an adhesive comprising a hot melt adhesive that is polyurethane based.

Takahashi et al disclose a bag (column 39, lines 55 – 59) comprising a barrier film comprising metallized polyethylene terephthalate (metal coated film or polyester, therefore a metal – coated or metallized polyester, which includes polyethylene terephthalate; column 62, lines 26 – 31) and a polyethylene film comprising metallocene linear low density polyethylene (column 52, lines 62 – 65) an adhesive comprising a hot melt adhesive that is polyurethane based (column 56, lines 21 – 24) for the purpose of obtaining a bag that has excellent mechanical strength (column 28, line 34). One of ordinary skill in the art would therefore have recognized the advantage of providing for the barrier film, polyethylene film and adhesive of Takahashi et al in Wemlinger, which comprises a bag, depending on the desired mechanical strength of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a barrier film comprising metallized polyethylene terephthalate and a polyethylene film comprising metallocene linear low density polyethylene and an adhesive comprising a hot melt adhesive that is polyurethane based in Wemlinger in order to obtain a bag that has excellent mechanical strength as taught by Takahashi et al.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marc Patterson 4/17/06
Marc A. Patterson, PhD.
Primary Examiner
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